

Message Text

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ACTION L-02

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E.O. 11652: N/A

TAGS: PFOR, PINT, GE, GW, US CGEN

SUBJECT: CONSULAR CONVENTION: INTERVIEW WITH EAST

GERMAN EXPERT IN INTERNATIONAL LAW IN

SPIEGEL

REF: BONN 1174

1. SPIEGEL MAGAZINE CARRIED IN ITS JANUARY 27 IDITION A FULL PAGE INTERVIEW WITH PROFESSOR BERNHARD GRAEFRATH, AN EAST GERMAN SPECIALIST IN INTERNATIONAL LAW. THE MAIN SUBJECT WAS THE CONCLUSION OF CONSULAR CONVENTIONS BETWEEN THE GDR AND OTHER COUNTRIES, WITH PARTICULAR REFERENCE TO THE GDR-AUSTRIAN CONSULAR CONVENTION WHICH AS NOT YET BEEN CONCLUDED. IN THE COURSE OF THIS INTERVIEW, GRAEFRATH STATED THAT THE LIMITED OFFICIAL USE

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UNITED STATES HAD EXPRESSEDLY REJECTED IN 1963 (THE

IDEA THAT) CONSUL OF THE FEDERAL REPUBLIC COULD REPRESENT CITIZENS OF THE GDR. THIS IS THE SOLE MENTION OF THE UNITED STATES IN THE ENTIRE ARTICLE AND THERE IS NO INDICATION WHAT AGREEMENT, STATEMENT OR OTHER DECLARATION WAS MEANT IN THE 1963 REFERENCE.

2. THE QUESTION AND ANSWER IN WHICH THIS REFERENCE TO THE UNITED STATES WAS MADE HAD TO DO WITH THE FRG POSITION TAKEN ON THE BASIS OF ARTICLE 116 OF THE FRG GRUNDGESETZ. GRAEFRATH DESCRIBED THIS PARTICULAR ARTICLE AS CONTRARY TO INTERNATIONAL LAW. HE FURTHER STATED THAT THE GRUNDGESETZ COULD NOT IN 1949 DETERMINE SINGLE GERMAN NATIONALITY AND THAT IN PRACTICE, EVEN BEFORE THE GDR WAS RECOGNIZED BY OTHER COUNTRIES, THE FRG POSITION WAS NOT ACCEPTED INTERNATIONALLY. HE CONCLUDED THIS ANSWER BY THE REFERENCE TO THE UNITED STATES "POSITION" OF 1963 AS REPORTED ABOVE.

3. COMMENT: GRAEFRATH'S STATEMENT THAT THE UNITED STATES SPECIFICALLY REJECTED THE IDEA OF FRG REPRESENTATION OF GDR NATIONALS IS MENTIONED ONLY AS AN EXAMPLE IN THE ARTICLE. IT IS DIFFICULT TO KNOW TO WHAT EXTENT THIS STATEMENT IS BELIEVED TO BE TRUE BY THE EAST GERMAN GOVERNMENT. WE VIEW THE REPORTED REFERENCE WITH CONSIDERABLE SKEPTICISM. IN PREPARING FOR UNITED STATES/GDR NEGOTIATIONS, HOWEVER, IT WOULD BE WELL TO RESEARCH THIS POINT IN ADVANCE SO THAT IF IT IS RAISED BY THE GDR SIDE WE WILL HAVE A READY ANSWER.

4. SPIEGEL INTERVIEW RECALLS TO MIND THE EXCHANGE BEGUN BY REFTTEL BETWEEN DEPARTMENT AND EMBASSY BONN WITH REGARD TO SOMMER ARTICLE IN DIE ZEIT. POINT MADE IN SPIEGEL IS NOT PRECISELY THE SAME AS IN SOMMER ARTICLE, AND DATES ARE DIFFERENT, I.E. 1963 VICE MAY 1962, BUT SAME GENERAL CONCLUSION IS DRAWN THAT USG HAD ALREADY MADE DETERMINATION ABOUT FRG CONSULAR ACCESS TO GDR NATIONALS. IN THIS CONNECTION, EMBASSY WOULD APPRECIATE RECEIVING TEXT OF 6 WHITEMEN 686.COOPER

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